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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 U.S. SMALL BUSINESS
17 ADMINISTRATION, as Receiver for
18 PROSPERO VENTURES, L.P,

19 Plaintiff,

20 v.

21 DONALD K. EMERY,

22 Defendant.

CASE NO. 07-03741 VRW

Related Cases:

C07-03739-VRW; C07-03737-VRW;
C07-03732-VRW; C07-03736-VRW;
C07-03738-VRW

**OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE, OR,
ALTERNATIVELY MOTION FOR
JUDGMENT ON PLEADINGS**

[Filed concurrently with Memorandum of
Points, and Proposed Order]

Date of Hearing: May 8, 2008

Time: 2:30 p.m.

Ctrm: 6, 17th Floor

23 Defendant Donald K. Emery opposes the Plaintiff's Motion to Strike Affirmative
24 Defenses, or, Alternatively for Judgment on the Pleadings.
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1 In support of this Opposition, Defendant relies on the accompanying Memorandum of
2 Points of Authorities and any arguments which may be presented at the hearing on this matter.
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5 Dated: April 22, 2008

DONOGHUE, BARRETT & SINGAL, P.C.

6 By: /s/ Damien C. Powell
7 Damien C. Powell
8 Attorney for Defendant
Appearance Pro Hac Vice

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10 O'CONNOR & ASSOCIATES
11 John O'Connor
12 Attorney for Defendant
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PROOF OF SERVICE

I, Damien C. Powell, admitted *pro hac vice* in the United States District Court, Northern District of California, declare:

I am a citizen of the United States of America and a resident of the Commonwealth of Massachusetts. I am over the age of eighteen (18) years. My business address is Donoghue, Barrett & Singal, P.C., 1 Beacon Street, Boston MA 02108. The business address of John O'Connor, Esq., the local counsel to the defendant, is One Embarcadero Center, Suite 1020, San Francisco, California 94111.

On April 22, 2008, I served the foregoing document(s) described as **OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE, OR, ALTERNATIVELY MOTION FOR JUDGMENT ON PLEADINGS** on the interested parties, at the addresses as stated below.

Via First Class Mail:

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Via Federal Express Overnight:

Hon. Vaughn R. Walker
U.S. District Court, Northern District
450 Golden Gate Avenue
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on
April 22, 2008, in Boston, Massachusetts.

Damien C. Powell